

**IN RE: PETITION FOR ADMIN. VARIANCE**

S side of Wye Road, 1,100 feet SW of  
the c/l of Middleborough Road  
15<sup>th</sup> Election District  
6<sup>th</sup> Councilmanic District  
**(342 Wye Road)**

Mark William Liberato  
*Petitioner*

\* BEFORE THE  
\* DEPUTY ZONING  
\* COMMISSIONER  
\* FOR BALTIMORE COUNTY  
\* **Case No. 2011-0235-A**

\* \* \* \* \*

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This matter comes before this Deputy Zoning Commissioner as a Petition for Administrative Variance filed by the legal owner of the subject property, Mark William Liberato for property located at 342 Wye Road. The variance request is from Section 400.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit a swimming pool in the front yard of an existing single family dwelling in lieu of the required rear yard. The subject property and requested relief are more particularly described on Petitioner’s Exhibit No. 1. Petitioner desire to construct a swimming pool in the front yard or waterside of the property. The subject property fronts on Norman Creek. The front or waterside of the property contains a 12 feet x 20 feet deck and 12 feet x 20 feet gazebo which will be removed. A portion of the existing paver walkway will also be removed. The gravel area measuring 23 feet x 23 feet on the Wye Road side of the property will also be removed. The new swimming pool and pool deck will be an attractive outdoor amenity for the family. None of the neighbors expressed any concern about the proposal.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments were received from the Department of Environmental Protection and Sustainability dated March 2, 2011. DEPS has reviewed the subject zoning petition for compliance with the goals of the State-mandated Critical Area Law listed in the Baltimore County

Zoning Regulations, Section 500.14. Based upon this review, DEPS offers the following comments:

1. This waterfront property is located in a Limited Development Area and a Buffer Management Area within the Chesapeake Bay Critical Area. Development of this property must comply with maximum lot coverage limits, must meet restrictions on development within the 100-foot tidal buffer, and must meet a minimum 15% tree cover requirement. Based on this, DEPRM has determined that adverse impacts on water quality from the pollutants discharged from the proposed development can be minimized with compliance and mitigation pursuant to Critical Area requirements. Mitigation requirements may include removal of lot coverage and the planting of native trees and shrubs.
2. The subject development can meet the requirement to conserve fish, wildlife, and plant habitat by bringing the site into compliance with all Critical Area requirements and through mitigation.
3. The proposed development is permitted under the State-mandated Critical Area regulations provided that development is in compliance with all Critical Area requirements. Lot coverage on the property and within the tidal buffer is limited. In this case, lot coverage removal will be required for compliance. Compliance with the Critical Area requirements, and mitigation can allow the subject development to be consistent with established land use policy for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that, even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts.

The Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on February 20, 2011, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

The Petitioner has filed the supporting affidavits as required by Section 32-3-303 of the Baltimore County Code. Based upon the information available, there is no evidence in the file to indicate that the requested variance would adversely affect the health, safety or general welfare of the public and should therefore be granted. In the opinion of the Deputy Zoning Commissioner, the information, photographs, and affidavits submitted provide sufficient facts that comply with the requirements of Section 307.1 of the B.C.Z.R. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioner.

Pursuant to the posting of the property and the provisions of both the Baltimore County Code and the Baltimore County Zoning Regulations, and for the reasons given above, the requested variance should be granted.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 15<sup>th</sup> day of March, 2011 that a variance from Section 400.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit a swimming pool in the front yard of an existing single family dwelling in lieu of the required rear yard is hereby GRANTED, subject to the following:

1. The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. This waterfront property is located in a Limited Development Area and a Buffer Management Area within the Chesapeake Bay Critical Area. Development of this property must comply with maximum lot coverage limits, must meet restrictions on development within the 100-foot tidal buffer, and must meet a minimum 15% tree cover requirement.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

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Signed  
TIMOTHY M. KOTROCO  
Deputy Zoning Commissioner  
for Baltimore County

TMK:pz